IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

THURSDAY, THE 28TH JUNE 2007 / 7TH ASHADHA 1929

Crl.MC.No. 1935 of 2007(B)

(C.C. NO. 1091/2003 of JUDICIAL FIRST CLASS MAGISTRATE COURT-I, ALUVA)

PETITIONER: CW2/INJURED:

SMT.RUKHIYA, W/O.EBRAHIM,
PULLORPADAVIL HOUSE, EAST VELIYATHUNAD,
ERNAKULAM DIST.

BY ADV. SRI.P.A.NOOR MUHAMMED

RESPONDENTS: STATE:

STATE OF KERALA, REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA,
ERNAKULAM.

BY ADV. SRI. M.S. BREEZ, PUBLIC PROSECUTOR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 28/06/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J

Crl.M.C.No.1935 of 2007

Dated this the 28th day of June, 2007

O R D E R

The petitioner is an injured witness in a prosecution under Sections 341 and 323 I.P.C. Her son-CW1 is the principal witness/injured. The matter has been settled between the parties and the petitioner and her son have compounded the offences alleged against the accused. The short grievance of the petitioner is that the learned Magistrate is unnecessarily insisting on the personal appearance of the petitioner before the learned Magistrate in court. According to the petitioner, the matter has been settled. Composition has been reported to the learned Magistrate by filing an affidavit and the learned Magistrate should have accepted the composition without insisting on the personal appearance of the petitioner.

2. The report of the learned Magistrate has been called for. The report shows that in the peculiar facts and circumstances of this case, the learned Magistrate finds no reason to deviate from the normal practice where the court insists on the personal appearance of the victim before such composition is accepted. The learned Magistrate entertains reservation about the alleged composition by the petitioner.

3. The learned counsel for the petitioner laboriously pleads that the personal appearance of the petitioner may be avoided. In as much as the learned Magistrate does entertain a reservation as to

whether the composition has really been effected by the injured witness, I am of opinion that the insistence by the learned Magistrate cannot be found fault with. However, in the light of the submissions made by the learned counsel for the petitioner, I am satisfied that an extraordinary course can be permitted to be followed in the facts and circumstances of the instant case.

4. The offences are compoundable. The learned Magistrate shall direct the parties to appear before the Lok Adalat to be fixed at 5 p.m on 05.07.07. On that day, the petitioner shall be permitted to appear before the Lok Adalat. At the Lok Adalat, the composition can be recorded and proceedings can be closed.

5. These directions are issued considering the very passionate submissions made by the learned counsel for the petitioner that the personal presence of the petitioner, a muslim woman, aged about 58 years, who allegedly suffers from various ailments, ought to be avoided. I am satisfied that the learned Magistrate should ensure that the petitioner is not kept waiting unnecessarily in the Adalat for any length of time and her application for composition must be taken up for consideration and disposed of taking the least amount of time. Compliance shall be reported to this Court. The accused can and the petitioner shall appear before the Adalat on 05/07/07 at 5 p.m.

(R.BASANT, JUDGE)

rtr/-